HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE MS JUSTICE G. ROHINI

Writ Appeal No.881 of 2007

Between:

C. Srinivasa Rao and four others

... Appellants

And

Central Power Distribution Company of AP Ltd.,
Rep., by its Chairman & Managing Director,
Singareni Bhavan, Red Hills, Lakdi-ka-pool,
Hyderabad and two others

... Respondents

Counsel for the appellants : Shri K. Vasu Deva Reddy

::JUDGMENT::

October 31, 2007

Per G.S. Singhvi, CJ

Feeling dissatisfied with an innocuous interlocutory order passed by the learned Single Judge in WPMP No.23002 of 2007 in Writ Petition No.17939 of 2007 whereby he directed the official respondents to follow the rule of reservation while making promotion to

the post of Junior Accounts Officer, the appellants have preferred this appeal under Clause 15 of the Letters Patent.

In the writ petition filed by them, the appellants have made the following substantive prayer:

"i) declare the action of the respondents in following the rule of reservations for 100% posts instead of 75% earmarked for promotees, while effecting the promotions as JAO, as illegal and arbitrary and contrary to the intent of legislature, duly setting aside the memo No.SE/OP/North/Hyd/ADM. A1/D.No.751/2007, dt.5-7-2007 issued by the 2nd respondent."

According to the petitioners, all the posts earmarked for the reserved categories in the cadre of Junior Accounts Officer have already been filled by promoting the Upper Division Clerks of those categories, but respondent Nos. 1 and 2 are determined to make promotion in excess of the quota of reserved categories.

The learned Single Judge admitted the writ petition and passed the following interim order:

"It is contended by the learned counsel for the petitioner that the respondents are going to fill up the posts of Junior Accounts Officers without following the Rule of Reservation.

In the circumstances, to protect the interests of the parties, the respondents are directed to follow the Rule of Reservation, which is in force as on today in the respondent-Company, for promotions to the post of Junior Accounts Officer.

Notice."

Shri K. Vasudeva Reddy, learned counsel for the appellants made strenuous efforts to convince us that the learned Single Judge committed an error by not entertaining his clients' request for total stay against promotion of the members of the reserved categories by arguing that quota meant for those categories has already been filled up, but we have not felt impressed. Rather, we are convinced that the discretion exercised by the learned Single Judge not to entertain the appellants' prayer for issue of a direction to the official respondents to fill up two vacant posts of Junior Accounts Officer only on the basis of

seniority in the cadre of Upper Division Clerks does not suffer from any legal infirmity.

It is trite to say that when a writ petition filed in the matter of fixation of seniority, promotion etc., is allowed, the Court can issue appropriate direction for re-fixation of seniority and consideration of the candidatures of eligible persons for promotion. In an exceptional case, the Court can also pass order for promotion of the eligible candidate. A direction can also be given for grant of consequential benefits to the eligible petitioner who might have been wrongfully denied promotion. However, in the service jurisprudence so far developed in our country, the Courts have not passed orders directing retrospective promotion of the respondents, who may have been denied promotion on account of interim order passed by the Court. The Courts are also extremely reluctant to pass interlocutory orders, which have the effect of bringing the administration to a grinding halt or it affects the rights of unknown number of persons, who are not even parties to the writ petition.

In the premise aforesaid, we hold that the elements of balance of convenience, irreparable injury and public interest are clearly against entertaining of the omnibus prayer made by the appellants.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP No. 1766 of 2007 filed by the appellants for interim relief is also dismissed.

G.S. SINGHVI, CJ

G. ROHINI, J

October 31, 2007
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